

Article - General Provisions

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§5–103.

(a) The determination of whether an individual is a public official for the purposes of this title shall be made in accordance with this section.

(b) Except as provided in subsection (f) of this section, the following individuals in executive units are public officials:

(1) an individual who receives compensation at a rate equivalent to at least State grade level 16, or who is appointed to a board, if the Ethics Commission determines under § 5–208 of this title that:

(i) the individual, acting alone or as a member of an executive unit, has decision–making authority or acts as a principal advisor to an individual with decision–making authority:

1. in making State policy in an executive unit; or
2. in exercising quasi–judicial, regulatory, licensing, inspecting, or auditing functions; and

(ii) the individual’s duties are not essentially administrative and ministerial;

(2) any other individual in an executive unit if the Ethics Commission determines that the individual, acting alone or as a member of the executive unit, has decision–making authority or acts as a principal advisor to an individual with decision–making authority in drafting specifications for, negotiating, or executing contracts that commit the State or an executive unit to spend more than \$10,000 in a year;

(3) a member, appointee, or employee of the Maryland Stadium Authority;

(4) a member, appointee, or employee of the Canal Place Preservation and Development Authority;

(5) a member of the Emergency Medical Services Board; and

(6) except in counties in which a county council or board of county commissioners sits as a board of license commissioners or a liquor control board, a member or employee of a board of license commissioners or a liquor control board.

(c) Except as provided in subsection (f) of this section, an individual in the Legislative Branch is a public official if the individual:

(1) receives compensation at a rate equivalent to at least State grade level 16; and

(2) is designated a public official by order of the presiding officers of the General Assembly.

(d) (1) (i) In this paragraph, “individual in the Judicial Branch” includes an individual who is:

1. employed in the office of a clerk of court;
2. paid by a county to perform services in an orphans’ court or circuit court;
3. employed by the Attorney Grievance Commission;
4. employed by the State Board of Law Examiners; or
5. employed by the Court of Appeals Standing Committee on Rules of Practice and Procedure.

(ii) Except as provided in paragraph (2) of this subsection or subsection (f) of this section, an individual in the Judicial Branch is a public official if the individual receives compensation at a rate equivalent to at least State grade level 16.

(2) The Ethics Commission may exclude the individuals in a position in the Judicial Branch from inclusion as public officials under paragraph (1)(ii) of this subsection:

(i) on the recommendation of the State Court Administrator; and

(ii) if the Ethics Commission determines that the position does not have policy, policy advice, quasi-judicial, or procurement functions.

(e) A member of a bicounty commission is a public official.

- (f) The following are not public officials:
- (1) a State official;
 - (2) an individual employed on a contractual basis unless the individual is:
 - (i) employed on a full-time basis for more than 6 months; and
 - (ii) designated as a public official under subsection (b)(1) or (c) of this section; and
 - (3) a part-time or full-time faculty member at a State institution of higher education:
 - (i) as to subsection (b)(2) of this section, only when the individual is acting in the capacity of a faculty member; and
 - (ii) as to any other provision of this section, unless the individual also:
 - 1. is employed in another position that causes the individual to be designated as a public official; or
 - 2. directly procures, directly influences, or otherwise directly affects the formation or execution of any State contract, purchase, or sale, as established by regulations adopted by the Ethics Commission and approved by the Joint Committee on Administrative, Executive, and Legislative Review.

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